

Lindenmeyr/Munroe, a Division of Central National Gottesman, Inc. and General Warehouse, Shippers, Packers, Receivers, Stockmen, Chauffeurs & Helpers Local Union No. 504, International Brotherhood of Teamsters, AFL-CIO.¹ Case 1-CA-28456

November 26, 1991

DECISION AND ORDER

BY CHAIRMAN STEPHENS AND MEMBERS
DEVANEY AND OVIATT

On August 15, 1991, the General Counsel of the National Labor Relations Board issued a complaint alleging that the Respondent has violated Section 8(a)(5) and (1) of the National Labor Relations Act by refusing the Union's request to bargain and to furnish information following the Union's certification in Case 1-RC-19245. (Official notice is taken of the "record" in the representation proceeding as defined in the Board's Rules and Regulations, Secs. 102.68 and 102.69(g); *Frontier Hotel*, 265 NLRB 343 (1982).) The Respondent filed its answer admitting in part and denying in part the allegations in the complaint.

On October 30, 1991, the General Counsel filed a Motion for Summary Judgment. On November 6, 1991, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent filed a response on November 18, 1991.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Ruling on Motion for Summary Judgment

In its answer the Respondent admits its refusal to bargain and to furnish information, but attacks the validity of the certification on the basis of its objections to the election and the Board's disposition of a challenged ballot in the representation proceeding.

All representation issues raised by the Respondent were or could have been litigated in the prior representation proceeding. The Respondent does not offer to adduce at a hearing any newly discovered and previously unavailable evidence, nor does it allege any special circumstances that would require the Board to reexamine the decision made in the representation proceeding. We therefore find that the Respondent has not raised any representation issue that is properly litigable in this unfair labor practice proceeding. See *Pittsburgh Plate*

Glass Co. v. NLRB, 313 U.S. 146, 162 (1941). The Respondent denies that the information requested—a complete and up-to-date list of all bargaining unit employees, including their names, addresses, dates of hire, wage rates, and social security numbers—is relevant and necessary to the Union's role as exclusive bargaining representative of the unit employees. With the exception of employees' social security numbers, which the General Counsel concedes are not presumptively relevant,² the employees' wage and employment information sought by the Union is presumptively relevant for purposes of collective bargaining and must be furnished on request.³ The Respondent has not attempted to rebut the relevance of the information requested by the Union. We therefore find that no material issues of fact exist with regard to the Respondent's refusal to furnish the information sought by the Union. Accordingly, we grant the Motion for Summary Judgment.⁴

On the entire record, the Board makes the following

FINDINGS OF FACT

I. JURISDICTION

The Respondent, a corporation with an office and place of business in Mansfield, Massachusetts, is engaged in the sale and distribution of certain paper products to customers in the graphics art industry. During the calendar year ending December 31, 1990, a representative period, the Respondent, in the course and conduct of its business generally, purchased and received at its Mansfield facility products, goods, and materials valued in excess of \$50,000 directly from points outside the Commonwealth of Massachusetts. We find that the Respondent is an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act and that the Union is a labor organization within the meaning of Section 2(5) of the Act.

² *Sea-Jet Trucking Corp.*, 304 NLRB No. 11 (Aug. 14, 1991). The General Counsel, as noted, acknowledges that under *Sea-Jet Trucking*, employees' social security numbers are not presumptively relevant, and does not seek summary judgment as to this allegation. Instead, the General Counsel asks that this issue be remanded to the Regional Director for further consideration.

³ See, e.g., *Trustees of Masonic Hall*, 261 NLRB 436 (1982); *Verona Dyestuff Division*, 233 NLRB 109 (1977).

⁴ As the employees' social security numbers are not presumptively relevant to the Union's role as collective-bargaining representative, the allegation that the Respondent unlawfully refused to furnish the Union with employees' social security numbers shall be remanded to the Regional Director for further consideration.

¹ The name of the Charging Party has been changed to reflect the new official name of the International Union.

II. ALLEGED UNFAIR LABOR PRACTICES

A. *The Certification*

Following the election held on June 8, 1989, the Union was certified on June 20, 1991, as the collective-bargaining representative of the employees in the following appropriate unit:

All full-time and regular part-time warehouse employees, including drivers, warehousemen, driver-helpers, cutters and wrappers employed by the Employer at its 240 Forbes Boulevard, Mansfield, Massachusetts location, but excluding office clerical employees, sales employees, guards and supervisors as defined in the Act.

The Union continues to be the exclusive representative under Section 9(a) of the Act.

B. *Refusals to Bargain*

Since June 21, 1991, the Union has requested the Respondent to bargain and to furnish information, and, since on or about July 8, 1991, the Respondent has refused. We find that these refusals constitute unlawful refusals to bargain in violation of Section 8(a)(5) and (1) of the Act.

CONCLUSION OF LAW

By refusing on and after July 8, 1991, to bargain with the Union as the exclusive collective-bargaining representative of employees in the appropriate unit and to furnish the Union with requested relevant information, the Respondent has engaged in unfair labor practices affecting commerce within the meaning of Section 8(a)(5) and (1) and Section 2(6) and (7) of the Act.

REMEDY

Having found that the Respondent has violated Section 8(a)(5) and (1) of the Act, we shall order it to cease and desist, to bargain on request with the Union, and, if an understanding is reached, to embody the understanding in a signed agreement. We also shall order the Respondent to furnish the Union with the relevant information requested.

To ensure that the employees are accorded the services of their selected bargaining agent for the period provided by law, we shall construe the initial period of the certification as beginning the date the Respondent begins to bargain in good faith with the Union. *Mar-Jac Poultry Co.*, 136 NLRB 785 (1962); *Lamar Hotel*, 140 NLRB 226, 229 (1962), *enfd.* 328 F.2d 600 (5th Cir. 1964), *cert. denied* 379 U.S. 817 (1964); *Burnett Construction Co.*, 149 NLRB 1419, 1421 (1964), *enfd.* 350 F.2d 57 (10th Cir. 1965).

ORDER

The National Labor Relations Board orders that the Respondent, Lindenmeyr/Munroe, a Division of Central National Gottesman, Inc., Mansfield, Massachusetts, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Refusing to bargain with General Warehouse, Shippers, Packers, Receivers, Stockmen, Chauffeurs & Helpers Local Union No. 504, International Brotherhood of Teamsters, AFL-CIO, as the exclusive bargaining representative of the employees in the bargaining unit, and refusing to furnish the Union information that is relevant and necessary to its role as the exclusive bargaining representative of the unit employees.

(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) On request, bargain with the Union as the exclusive representative of the employees in the following appropriate unit on terms and conditions of employment and, if an understanding is reached, embody the understanding in a signed agreement:

All full-time and regular part-time warehouse employees, including drivers, warehousemen, driver-helpers, cutters and wrappers employed by the Employer at its 240 Forbes Boulevard, Mansfield, Massachusetts location, but excluding office clerical employees, sales employees, guards and supervisors as defined in the Act.

(b) On request, furnish the Union information that is relevant and necessary to its role as the exclusive representative of the unit employees, including the information requested on June 21, 1991, with the exception of social security numbers.

(c) Post at its facility in Mansfield, Massachusetts, copies of the attached notice marked "Appendix."⁵ Copies of the notice, on forms provided by the Regional Director for Region 1, after being signed by the Respondent's authorized representative, shall be posted by the Respondent immediately upon receipt and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent

⁵ If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

to ensure that the notices are not altered, defaced, or covered by any other material.

(d) Notify the Regional Director in writing within 20 days from the date of this Order what steps the Respondent has taken to comply.

IT IS FURTHER ORDERED that the allegation, that the Respondent unlawfully refused to furnish the Union with unit employees' social security numbers, is severed and remanded to the Regional Director for further appropriate action.

APPENDIX

NOTICE TO EMPLOYEES
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

WE WILL NOT refuse to bargain with General Warehouse, Shippers, Packers, Receivers, Stockmen, Chauffeurs & Helpers Local Union No. 504, International Brotherhood of Teamsters, AFL-CIO, as the exclusive representative of the employees in the bargaining unit, and WE WILL NOT refuse

to furnish the Union information that is relevant and necessary to its role as the exclusive bargaining representative of the unit employees.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL, on request, bargain with the Union and put in writing and sign any agreement reached on terms and conditions of employment for our employees in the bargaining unit:

All full-time and regular part-time warehouse employees, including drivers, warehousemen, driver-helpers, cutters and wrappers employed by us at our 240 Forbes Boulevard, Mansfield, Massachusetts location, but excluding office clerical employees, sales employees, guards and supervisors as defined in the Act.

WE WILL, on request, furnish the Union information that is relevant and necessary to its role as the exclusive bargaining representative of the unit employees.

LINDENMEYR/MUNROE, A DIVISION
OF CENTRAL NATIONAL GOTTESMAN,
INC.